

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES RUSSO,  
Plaintiff,

**ANSWER OF DEFENDANTS  
THE NEW YORK CITY  
DEPARTMENT OF FINANCE  
AND THE DEPARTMENT OF  
SOCIAL SERVICES OF THE  
CITY OF NEW YORK TO  
COMPLAINT AND TO CROSS-  
CLAIM**

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-against-

MP222 LLC, 222 EAST 95<sup>TH</sup> STREET  
OWNERS CORP., COMMISSIONER OF  
SOCIAL SERVICES OF THE CITY OF  
NEW YORK, NEW YORK STATE DEPART-  
MENT OF TAXATION AND FINANCE,  
NEW YORK CITY DEPARTMENT OF  
FINANCE, MERRILL LYNNCH CREDIT  
CORPORATION and the INTERNAL  
REVENUE SERVICE OF THE UNITED  
STATES OF AMERICA,  
Defendants.

07 Civ. 5469 (WEP)

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UNITED STATES OF AMERICA,  
Counterclaim,  
Crossclaim and  
Third-Party  
Plaintiff,  
-against-

JAMES RUSSO,  
Counterclaim  
Defendant.  
-and-

MP222 LLC, 222 EAST 95<sup>TH</sup> STREET  
OWNERS CORP., COMMISSIONER OF SOCIAL  
SERVICES OF THE CITY OF NEW YORK,

NEW YORK STATE DEPARTMENT OF TAXATION  
AND FINANCE, NEW YORK CITY DEPARTMENT  
OF FINANCE, MERRILL LYNCH CREDIT CORP-  
ORATION,

Counterclaim  
Defendants,  
-and-

JAMES A. RUSSO, JOHN DOES NOS. 1-10  
and JANE DOES NOS. 1-10,

Third-Party  
Defendants.

-----X

Defendants the New York City Department of Finance (“DOF”) and the Department of Social Services of the City of New York (“DSS”) (collectively, the “City”), answer to the Verified Complaint of plaintiff James Russo (“plaintiff”), and to the Cross-Claim of defendant United States Internal Revenue Service (“IRS”), as follows:

ANSWER TO COMPLAINT:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 1-5(a), 6-20(a)-(c), 20(e)-(f) and 21-22 of the Complaint.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 5(b) and 20(d) of the Complaint, except admits that there is a tax lien docketed on May 2, 2006 against plaintiff James Russo in favor of DOF in the amount of \$10,268.18 (the “DOF Tax Lien”), and affirmatively states that said DOF Tax Lien is a priority lien and must be paid.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint, and affirmatively states that as to the

City, the allegations contained in said paragraph 23 are too vague and broad to adequately respond.

4. The allegations contained in paragraph 24 of the Complaint state plaintiff's demand to which no answer is required. To the extent an answer is deemed necessary, the City repeats and re-alleges its answers to paragraphs 1-24 of the Complaint herein.

AFFIRMATIVE DEFENSE TO COMPLAINT

5. Plaintiff fails to state a claim against the City upon which relief can be granted.

AFFIRMATIVE DEFENSE TO COMPLAINT

6. On information and belief, plaintiff failed to obtain personal jurisdiction.

AFFIRMATIVE DEFENSE TO COMPLAINT

7. The complaint fails to satisfy Section 202-a of the Real Property Actions and Proceedings Law.

ANSWER TO CROSS-CLAIM OF DEFENDANT IRS:

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 50-54 and 56 of the Cross-Claim.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Cross-Claim, but admits that the City has a tax lien against the subject premises docketed on May 2, 2006 against James Russo in the amount of \$10,268.16, and it affirmatively states that said DOF Tax Lien is superior to the federal tax liens.

AFFIRMATIVE DEFENSE TO THE CROSS-CLAIM OF DEFENDANT IRS

11. DOF's Tax Lien was perfected prior to the docketing of the federal tax liens and therefore, it is superior.

AFFIRMATIVE DEFENSE TO THE CROSS-CLAIM OF DEFENDANT IRS

12. On Information and belief, defendant IRS failed to obtain personal jurisdiction.

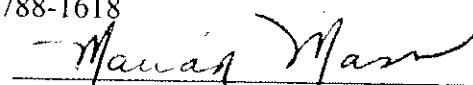
AFFIRMATIVE DEFENSE TO THE CROSS-CLAIM OF DEFENDANT IRS

13. The Cross-Claim of defendant IRS against the City fails to state a claim upon which relief can be granted.

**WHEREFORE**, it is respectfully requested that this Court issue an order specifying that DOF's Tax Lien is prior to all other liens and interests in the subject premises, that the Complaint as against the City be dismissed in its entirety, that the Cross-Claim of defendant IRS as against the City be dismissed in its entirety, and that the Court grant such other and further relief as may be just and proper.

Dated: New York, New York  
September 26, 2007

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendants the New York City  
Department of Finance and the Department of  
Social Services of the City of New York  
100 Church Street, Room 3-249  
New York, New York 10007  
(212) 788-1618

By:   
Mariah Mass (MM 9964)  
Assistant Corporation Counsel

To (by first-class mail):  
Richard Agins, Esq.  
Agins, Siegel & Reiner, LLP  
Attorneys for Plaintiff

386 Park Avenue South, Suite 1200  
New York, New York 10016-8804

Friedberg Cohen Coleman & Pinkas, LLP  
Attorneys for Defendant 222 East 95<sup>th</sup> Owners Corp.  
444 Madison Avenue  
Suite 805  
New York, New York 10022

Office of the Attorney General  
Attorney for Defendant New York State Department of Taxation and Finance  
120 Broadway  
New York, New York 10271

Kathleen A. Zebrowski, Esq.  
Attorney for Defendant Internal Revenue Service  
United States Attorney's Office  
Southern District of New York  
86 Chambers street  
New York, New York 10007

Joseph T. Colasurdo & Assoc., PC  
Joseph T. Colasurdo, Esq.  
Attorneys for Defendant Merrill Lynch Credit Corporation  
2900 Westchester Avenue, Suite 206  
Purchase, New York 10577

Joseph H. Lessem, Esq.  
Graubard Miller  
Attorney for Defendant MP 222 LLC  
The Chrysler Bldg  
405 Lexington Avenue  
New York, NY 10174

Stein Weiner & Roth  
One Old Country Road, Suite 113  
Carle Place, NY 11515

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAMES RUSSO,

Plaintiff,

- against -

MP222 LLC, et al.,

Defendants.

CITY'S ANSWER TO COMPLAINT AND TO  
DEFENDANT IRS'S CROSS-CLAIM

MICHAEL A CARDODOZO  
Corporation Counsel of the City of New York  
Attorney for the City of New York  
100 Church Street, Room 3-249  
New York, New York. 10007

Of Counsel: Marian Mass  
Tel: (212) 788-1618  
NYCLIS No. 2007-017762

Due and timely service is hereby admitted.

New York, N.Y. ...., 200..

..... Esq.

Attorney for.....